

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

APPLICANTS: Shaun P. Cooley
SERIAL NO.: 10/686,356
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TITLE: Countering Spam That Uses Disguised Characters
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GROUP ART UNIT: 2135
ATTY. DKT. NO.: 20423-08165

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DECLARATION OF FACT BY SHAUN P. COOLEY UNDER 37 C.F.R. § 1.131

I, Shaun P. Cooley, hereby declare the following:

1. I am the inventor of the invention described and claimed in U.S. Patent Application Serial No. 10/686,356 (hereinafter the "Subject Application"), entitled "Countering Spam That Uses Disguised Characters," and filed on October 14, 2003.

2. I actually reduced to practice the invention described and claimed, now pending in the Subject Application, in this country, before May 2, 2003. My prior actual reduction to practice are evidenced by the following:

a. Attached hereto as Exhibit A is a true and correct copy of an invention disclosure form, in which I disclosed my actual reduction to practice of the invention. I entered this invention disclosure form into Symantec's internal invention disclosure tracking system, which assigned tracking number 200308011345 to this invention disclosure form. Certain confidential information has been redacted from this invention disclosure form.

b. Attached hereto as Exhibit B is a true and correct copy of a printout from the source code control system containing the source code files indicated, including file "ColorLogic.h". Summaries of some of the files are also shown. The source code files had been checked into the source code control system before May 2, 2003. The printout also indicates that the source code files had been checked into the source code control system before May 2, 2003 (date redacted).

c. Attached hereto as Exhibit C is a true and correct copy of a printout of the source code file "ColorLogic.h" indicated in Exhibit B. This source code file had been checked into the source code control system before May 2, 2003.

d. Embodiments of the invention were constructed or performed prior to May 2, 2003 that met every element of the claims of the Subject Application. This is further evidenced by the following:

1. One such embodiment of the invention included executable code compiled from source code, the executable code stored on a computer readable storage medium corresponding to claim 16. Another such embodiment included an apparatus (e.g., computer) corresponding to claim 18 configured to execute the executable code. Another such embodiment included execution of the executable code to perform the method of claim 1.
2. The invention disclosure form of Exhibit A discusses each element of the claimed invention as recited in claims 1, 16, and 18. Section 10 of the invention disclosure form describes at least the following claimed elements: "countering spam that disguises characters within an electronic message;" "locating portions of the electronic message where a difference between foreground color and background color is negligible;" "determining whether at least one of the foreground color and the background color is a gray-scale color;" "responsive to at least one of the foreground color and the background color being a gray-scale color, deeming the difference between the colors to be negligible based on a comparison of

saturation and brightness values of the colors regardless of the hue values of the colors;” “deleting from the electronic message foreground characters from said portions, to form a redacted electronic message;” and “forwarding the redacted electronic message to a spam filter.”

3. Section 5.A. of the invention disclosure form of Exhibit A demonstrates that the embodiment described in Section 10 of the invention disclosure form was completed before May 2, 2003 (date redacted).
4. The embodiments of the invention included or used the source code files listed in Exhibit B, including the source code file “ColorLogic.h”.
5. The source code file “ColorLogic.h” shown in Exhibit C includes code for “locating portions of the electronic message where a difference between foreground color and background color is negligible, comprising: determining whether at least one of the foreground color and the background color is a gray-scale color; and responsive to at least one of the foreground color and the background color being a gray-scale color, deeming the difference between the colors to be negligible based on a comparison of saturation and brightness values of the colors regardless of hue values of the colors.” See, e.g., the function “IsColorVisible()” in ColorLogic.h.
6. Various other source code files include code for “deleting from the electronic message foreground characters from said portions, to form a redacted electronic message;” and “forwarding the redacted electronic message to a spam filter.” These steps are performed in the code by analyzing each HTML element in an electronic message, comparing the foreground and background color of each HTML element using the IsColorVisible() function mentioned

above, ignoring the HTML element if IsColorVisible() returns “false”, and passing the text of the HTML element to a spam filter if IsColorVisible() returns “true”.

7. The source code for “deleting from the electronic message foreground characters from said portions, to form a redacted electronic message;” and “forwarding the redacted electronic message to a spam filter” are spread out among several source code files comprising hundreds of thousands of lines of code. Copies of these source code files are not provided along with this declaration because of the volume of the code and because of the many proprietary features contained in the code that are unrelated to the claimed invention.

e. Embodiments of the invention were constructed or performed prior to May 2, 2003 that worked for its intended purpose. This is further evidenced by the following:

1. Section 9 of the invention disclosure form in Exhibit A mentions detecting spam as an intended purpose of the invention.
2. Section 10 of the invention disclosure form in Exhibit A further mentions that the invention enables detecting spam.
3. Section 5.A. of the invention disclosure form of Exhibit A demonstrates that the embodiment described in Sections 9 and 10 of the invention disclosure form was completed before May 2, 2003 (date redacted).

f. Testing was performed on the embodiments of the invention described above prior to May 2, 2003 and the testing successfully demonstrated that the invention worked for its intended purpose. This is further evidenced by the following:

1. The source code from the file “ColorLogic.h” shown in Exhibit C, along with other source code files, including the files listed in Exhibit B, was successfully compiled, executed, and tested prior to May 2, 2003. Specifically, this code was tested on multiple HTML

files containing various foreground text colors and background colors. The code was determined to be able to successfully process the HTML files in accordance with the invention as described and claimed. For example, the code was determined to be able to ignore (or delete) non-visible text within the HTML files when performing spam filtering.

2. Section 5.E of the invention disclosure form of Exhibit A indicates that a "First Successful Version" of the embodiment described in Section 10 of the invention disclosure form has been retained, implying that the embodiment has been successfully tested.
3. The comment near the beginning of source code file "ColorLogic.h" shown in Exhibit C indicates that "the value ranges that are used are based on several weeks of testing hundreds of monitors." The "value ranges" refer to differences in values of hue, saturation, and brightness. The testing was used to determine optimal value ranges among other things.
4. The testing described above was performed prior to May 2, 2003.

g. The invention was recognized and appreciated prior to May 2, 2003. This is further evidenced by the following:

1. Section 9 of the invention disclosure form of Exhibit A mentions detecting spam as an intended purpose of the invention.
2. Section 10 of the invention disclosure form of Exhibit A further mentions that the invention enables detecting spam.
3. Section 5.A. of the invention disclosure form of Exhibit A demonstrates that the embodiment described in Sections 9 and 10 of the invention disclosure form was completed before May 2, 2003.

3. The claimed invention was therefore actually reduced to practice before May 2, 2003.

4. I hereby declare that all statements made herein to the best of my own knowledge are true and that all statements made on information and belief are believed to be true; that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001; and that such willful statements may jeopardize the validity of the application or any patent issued thereon.



Shaun P. Cooley

July 13, 2009

Date